



4410-15

## NOTICE

### DEPARTMENT OF JUSTICE

#### NOTICE OF LODGING OF PROPOSED CONSENT DECREE UNDER THE CLEAN AIR ACT

On September 10, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Middle District of North Carolina in the lawsuit entitled *United States, et al. v. Duke Energy Corporation*, Civil Case No. 1:00-cv-1262 (M.D.N.C.). Environmental Defense, the North Carolina Sierra Club, and Environment North Carolina (formerly the North Carolina Public Interest Research Group) are co-plaintiffs in the case.

In this civil enforcement action under the federal Clean Air Act (“Act”), the United States and its co-plaintiffs allege that Duke Energy Corporation (“Defendant”), failed to comply with certain requirements of the Act intended to protect air quality at power plants in North Carolina. The complaint seeks injunctive relief and civil penalties for violations of the Clean Air Act’s Prevention of Significant Deterioration (“PSD”) provisions, 42 U.S.C. §§ 7470-92, and various Clean Air Act implementing regulations. Specifically, the complaint alleges that Defendant failed to obtain appropriate permits and failed to install and operate required pollution control devices to reduce emissions of sulfur dioxide (“SO<sub>2</sub>”) nitrogen oxides (“NO<sub>x</sub>”), and/or particulate matter (“PM”) at electricity generating units at the following North Carolina plants: the Allen and Riverbend plants in Gaston County, the Buck plant in Rowan County, the Cliffside plant in Cleveland and Rutherford Counties, and the Dan River plant in Rockingham County.

The proposed Consent Decree would resolve violations for certain provisions of the Act at Allen Units 1 and 2, Riverbend Units 4, 6, and 7, Buck Units 3, 4, and 5, Cliffside Units 1, 2, 3, and 4, and Dan River Unit 3. Eleven of these thirteen units have been recently shut down, and the proposed settlement would render those retirements a permanent obligation under the Consent Decree. At the remaining units (Allen Units 1 and 2), the proposed Consent Decree requires Defendant to operate pollution controls and meet interim emission limitations prior to permanently retiring the units in 2024. In addition, Duke will retire an additional unit at the Allen plant, and spend \$4,400,000 to fund environmental mitigation projects that will further reduce emissions and benefit communities adversely affected by the pollution from the plants, and pay a civil penalty of \$975,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al. v. Duke Energy Corporation*, Civil Case No. 1:00-cv-1262 (M.D.N.C), D.J. Ref. No. 90-5-2-1-07155. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <http://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$18.00 (25 cents per page reproduction cost) payable to the United States Treasury.

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